

ANACONDA ALUMINUM COMPANY
DIVISION OF THE ANACONDA COMPANY

CONTRACT TERMS AND CONDITIONS

ARTICLE I. SITE AND OTHER EXAMINATIONS - OBSERVANCE OF LAWS

A. The Contractor represents that, if required by the law of State wherein the work is to be performed, he procures a license to do business and complies with all other necessary requirements before submitting his bid hereunder.

B. The Contractor represents that he has had opportunity and has carefully examined all drawings, specifications and Governmental restrictions, permits, and license requirements, and all other laws and rules applicable to the work to be done under this contract, the site of the work, its surroundings and the local conditions, and has made all investigations-essential to a full understanding of the difficulties which may be encountered, and has special qualifications for doing the work covered by this contract in accordance with such drawings and specifications and the terms of this contract.

C. The Contractor shall promptly and before commencing work procure, at his own expense, all necessary permits and licenses (including licenses to do business), and will, in the performance of the work, observe and abide by all applicable laws, regulations, ordinances, Governmental restrictions and other rules.

D. The Contractor agrees to hold the Owner harmless from any liability or penalty which might be imposed by reason of an asserted violation by the Contractor of any such laws, regulations, ordinances Governmental restrictions or other rules.

ARTICLE 2. SPECIFICATIONS AND DRAWINGS

A. The Contractor shall at all times keep at the site of the work a copy of the drawings and specifications of this contract. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown and mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In any case of discrepancy in the figures, drawings, or specifications, the matter shall be immediately submitted to the representative designated by Owner, without whose decision said discrepancy shall not be adjusted by the Contractor, save only at his own risk and expense. Owner will furnish, from time to time, such detailed drawings and other information as it may consider necessary.

B. The Contractor and his subcontractors shall furnish all shop drawings, properly identified, required by the specifications. All shop drawings submitted by subcontractors shall be first checked by the Contractor and corrected before being submitted to Owner. Approval of shop drawings by Owner shall not relieve the Contractor from responsibility for errors or omissions therein, and the Contractor, notwithstanding such approval, shall correct all errors and omissions.

C. All drawings, specifications, and copies thereof furnished by or on behalf of Owner are the property of Owner and shall be returned upon request or at the completion of the work whichever occurs first. The drawings, specifications, and all copies thereof are given to the Contractor for the limited purpose of use by him, his subcontractors and material suppliers in connection with the Contractor's performance under this contract; and they may not be used for any other purpose whatsoever without the prior written consent of Owner. The information contained on the drawings and in the specifications is confidential and, except for the purpose specified above, neither the drawings, specifications, nor any part thereof, nor any information concerning them may be copied, exhibited or furnished to others without the prior written consent of Owner, and no photographs may be taken of any article fabricated or assembled from the drawings and/or specifications without the prior written consent of Owner.

D. The originals of all drawings, or mylar reproductions thereof in the case of standard detail drawings, furnished by the Contractor as part of the work are the property of Owner and shall be delivered to Owner complete with all field revisions before final payment is made.

ARTICLE 3. CHANGES

Owner may, at any time, by a written change order, or by the issuance of an Extra Work Ticket, make changes in the drawings or specifications of this contract, omit certain work or require additional work to be performed by the Contractor. If such changes shall materially affect the amount of work or the time required for its performance, or shall increase or decrease the cost of the work to the Contractor, an equitable adjustment in the contract price or time for performance, or both, shall be made; provided, however, that the Contractor shall proceed with the prosecution of the work so changed without waiting for an agreement to be reached concerning such adjustment.

Any change in the contract price necessitated by such changes shall be made by whichever of the following methods shall then be acceptable to owner.

- A. by adding or deducting a lump sum;
- B. by adding or deducting a unit price;
- C. by adding:
 - 1. an amount equal to the actual cost of all field labor (thus excluding costs of administration, clerical expenses, time-keeping, and superintendence) required to perform such additional work, as measured by the application of straight time labor rates, plus
 - 2. an amount equal to the actual cost of the premium portion of overtime labor when such overtime work is authorized by Owner for the performance of additional work, plus
 - 3. an amount equal to the Contractor's actual cost of additional insurance and taxes measured by payroll, travel pay, and contributions measured by wages which shall include fees and assessments incurred in the performance of such additional work, plus

4. an amount for the actual cost of material furnished and expendable tools and supplies directly consumed in completion of such additional work by the Contractor, the Contractor being required to take all available discounts, plus

5. an amount to cover the use of equipment (other than small tools) required to perform such additional work at rental rates previously agreed upon, plus

6. an amount for profit and overhead equal to 10 % of Items 1, 3, and 4 of this Article.

7. If the Contractor procures the performance of such additional work by other than its own employees, the Contractor shall be entitled to an amount for profit and overhead equal to 10 % of the total cost invoiced by the Subcontractor, subject to prior approval by Owner.

The Contractor shall keep full and detailed accounts and records as may be necessary to reflect its costs for work performed under this Article 3C, and these records shall be subject to audit by Owner.

Any claim for adjustment under this Article must be asserted within ten (10) days from the date the change was ordered, provided that Owner, without thereby waiving this provision, may consider any such claim prior to completion and acceptance of the work. If any extra, additional or different work be executed by the Contractor without previous written order given by Owner, no charge will be allowed.

ARTICLE 4. SUPERINTENDENCE BY THE CONTRACTOR

The Contractor shall give his personal superintendence to the work or have a competent foreman or superintendent satisfactory to Owner, at the site of the work at all times during progress of the work with authority to act for the Contractor.

ARTICLE 5. MATERIALS AND WORKMANSHIP

Unless otherwise specifically provided for in this contract, all workmanship, equipment, materials and articles incorporated in the work covered by this contract are to be of the best grade of their respective kind for the purpose. When any equipment, material, or article is proposed by the Contractor as conforming to or as an equal to any particular standard for like items referred to in this Contract, Owner shall decide the question of equality. The Contractor shall furnish to Owner for its approval the name of the manufacturer of machinery and mechanical and other equipment which he contemplates incorporating in the work, together with performance capacities thereof and other pertinent information. When required by this contract, or when called for by Owner, the Contractor shall furnish Owner, for approval, full information concerning the materials or articles which he contemplates incorporating in the work. Samples of materials shall be submitted for approval when so requested. Machinery, equipment, materials and articles installed or used without such approval shall be at the risk of subsequent rejection.

ARTICLE 6. INSPECTION AND TESTS

A. The Owner and its representatives shall at all times have access to the work wherever it is in preparation or in progress, and the Contractor shall provide proper facilities for such access and for inspection.

B. Owner shall have the right to reject defective materials or workmanship and to require their correction. Rejected workmanship shall be satisfactorily corrected, and rejected materials shall be immediately removed from the premises, without charge. If the Contractor does not correct such defective work within a reasonable time or remove rejected materials immediately, Owner may correct such defective work, or remove such rejected materials and charge the expense to the Contractor. Should Owner at any time before final acceptance of the entire work desire to make an examination of the work already completed by removing or tearing out same, the Contractor shall, upon request, promptly furnish all necessary facilities, labor and materials therefor. If such work is found to be defective in any material respect due to fault of the Contractor or his subcontractors, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of this contract, the Contractor will be reimbursed by Owner for the work necessarily involved in the examination and replacement, in accordance with Article 3, Section 3, of these General Conditions.

C. When any work is being executed away from the premises, Owner shall be notified in writing in reasonable time where such work is to be done and when it shall be ready for inspection, so that the Owner may inspect the same from time to time before delivery.

D. The failure of Owner during the progress of the work to discover or reject material or work not in accordance with the contract, shall not be deemed an acceptance thereof or a waiver of defects therein and neither payment nor partial or entire occupancy of the premises by the Owner shall be construed to be an acceptance of work or materials which are not strictly in accordance with this contract.

E. All laboratory tests required by Owner shall be made in a laboratory approved by Owner, and Owner will, unless otherwise provided in this contract, pay all costs of such tests and engineering services. Unless otherwise specified by Owner, all tests shall be made in accordance with the current standard methods of the American Society for Testing Materials governing the materials tests.

ARTICLE 7. GUARANTEE.

A. In addition to the specific guarantees required by the specifications for the work to be performed under this contract, the Contractor guarantees all work to be performed and all materials to be furnished under this contract against defects in materials or workmanship for a period of one (1) year from the date of final written acceptance of the completed work by Owner. The Contractor shall, within a reasonable time after receipt of written notice thereof, repair or replace defective materials or workmanship which may develop before the expiration of said one-year period and shall repair or replace other work which shall have been damaged by such defects or the repairing of the same, all at his own expense and without cost to Owner.

B. Where the Contractor, under this contract, is to furnish, or is responsible for, the design of any machinery or equipment or of a process, the Contractor guarantees that the same shall meet the performance requirements specified therefor in this contract. The inspection, testing, approval and or acceptance by Owner of any such machinery, equipment, process or work shall not, unless specifically agreed to by Owner, relieve the Contractor of its obligations under this Section B with respect thereto. The guarantees contained in this Section B are in addition to those guarantees contained in Section A above and Owner, in the event of a breach by the Contractor of its obligations under this Section B, shall not be limited to the remedies set forth in Section A but shall have all the rights and remedies permitted by this contract and by law.

ARTICLE 8. DELAYS AND EXTENSIONS OF TIME

The Contractor shall not be entitled to any damages or compensation for delays in the commencement, progress or completion of the work caused by any act, default, or neglect of Owner or other contractor performing a contract with Owner, or by fire, flood, act of God, strike, or any other cause whatsoever. A timely written request for an extension of time shall be the Contractor's sole and exclusive remedy for such delays.

If any such delay is not caused by or contributed to by any act, default or neglect of the Contractor and is attributable to causes beyond his control, the time for completion shall be extended by Owner for a period of time determined by Owner to be equivalent to the time of such delay; but no extension of time will be granted unless Owner receives the Contractor's written request therefor within 48 hours after the delay commences.

ARTICLE 9. MATERIALS FURNISHED

No materials, supplies, equipment, labor, services or any other things required for the performance of the work hereunder are to be furnished by Owner unless this contract otherwise expressly provides. In case this contract expressly provides that any materials, supplies, equipment, labor, services or any other things will be furnished by the Owner, Owner will use reasonable efforts to furnish or cause the same to be furnished when required by the Contractor but Owner shall not be liable for any delay in furnishing the same.

ARTICLE 10. TITLE AND RISK OF LOSS

Title to all completed or partially completed work at the Owner's jobsite, and to all materials delivered to and stored at said jobsite which are intended to become a part of the completed work covered by this contract, shall be in the Owner. Notwithstanding the foregoing, and prior to acceptance of the completed work by Owner, the Contractor shall be liable for all loss of or damage to said completed work, partially completed work, materials furnished by the Contractor, and materials fur-

nished by others, the custody of which has been given to the Contractor, arising from any cause other than a cause against which the Owner has undertaken to carry insurance. In the event of loss or damage from causes other than those against which the Owner has undertaken to carry insurance, the Contractor shall replace or repair the said work or materials at his own cost and expense, to the complete satisfaction of Owner.

ARTICLE 11. OTHER WORK

A. It is understood that work not covered by this contract may be performed by Owner or others in the same area that must be occupied by the Contractor. In such event the Contractor shall fully cooperate with Owner and such others in scheduling his work so that a minimum of interference will occur. It is also understood that the Owner may occupy the premises during performance of work by the Contractor hereunder and that such occupancy shall not constitute acceptance of the work.

B. The Contractor shall check all lines, grades and elevations previously established before proceeding with his own work and make certain they are suitable for receiving his work under this contract. If any fault exists, the Contractor shall notify Owner in writing and shall not proceed until all faults are corrected. If the Contractor shall proceed without such notification in writing or such correction, such action shall be conclusively deemed an admission by him that such lines, grades and elevations are suitable for receiving his work, and, if it is then found necessary to correct any faults or to reconstruct any part of the Contractor's work because of such faults, the Contractor shall correct or reconstruct the same without expense to Owner.

C. The Contractor shall familiarize himself with the specifications and drawings of work to be done by others but related to that part of the work in which he is participating. Before proceeding with his own work and from time to time as his work progresses, the Contractor shall examine the work installed by others, insofar as it influences his work, and shall promptly notify the Construction Manager in writing if any condition exists that will prevent his giving satisfactory results in his own work. Should the Contractor start or continue his work without such notification, such action shall be conclusively deemed an admission by him of the suitability of all such other work, and, if it is then found necessary to correct such other work or to reconstruct the Contractor's work because of conditions in such other work, the Contractor shall correct or reconstruct the same without expense to Owner.

ARTICLE 12. SUBCONTRACTS

The Contractor shall procure Owner's written permission before subletting or subcontracting any portion of the work. All subcontracts and all orders for the purchase or rental of supplies, material, or equipment, shall provide that the subcontractor, supplier, or materialman shall be bound by and subject to all the terms and conditions of this contract. No subcontract or order shall relieve the Contractor from his obligations hereunder or shall purport to bind Owner, but each subcontract or order shall contain a provision permitting assignment to Owner.

ARTICLE 13. LIENS

A. The Contractor agrees that he will not make, file, or maintain a mechanic's or other lien or claim of any kind or character whatsoever against any building or other structure to which this contract relates, the additions, improvements, alterations, or repairs made thereon, the ground on which said building or other structure is situated, or any other property or property interest owned, held, occupied or otherwise possessed by Owner, for or on account of any labor, materials, fixtures, tools, machinery, equipment or any other things furnished, or any other work done or performance given under, arising out of, or in any manner connected with this contract, or any agreement supplemental thereto, and the Contractor hereby expressly waives and relinquishes any and all rights which he now has, or may hereafter acquire, to file or maintain any mechanic's or other lien or claim of any kind or character whatsoever against the aforesaid property or property interests; and the Contractor further agrees that this provision waiving the right of liens shall be an independent covenant.

B. The Contractor, on behalf of his subcontractors, materialmen, and all other persons entitled to a mechanic's or other lien or claim of any kind or character whatsoever, agrees that no such lien or claim shall be made, filed, or maintained against said building or other structure, the additions, improvements, alterations, or repairs made thereon, the ground on which said building or structure is situated, or any other property or property interest owned, held, occupied or otherwise possessed by Owner, by any subcontractors, materialmen, or any other persons entitled to such a lien or claim for or on account of any labor, materials, fixtures, tools, machinery, equipment or any other things furnished, or any other work done or performance given under, arising out of, or in any manner connected with this contract, any agreement supplemental thereto, or any subcontract made pursuant to or in connection with the performance under this contract or any agreement supplemental thereto. The Contractor, on behalf of his subcontractors, materialmen, and all other persons entitled to such a lien or claim, does hereby expressly waive and relinquish any and all rights which any of the said persons now have, or may hereafter acquire, to file or maintain any such lien or claim against the aforesaid property and property interests; and the Contractor, on behalf of the said persons, further agrees that this provision waiving the right of liens shall be an independent covenant.

C. The Contractor further covenants and agrees that he will not at any time suffer or permit any such lien or claim to be made, filed, or maintained by any person or persons and that he will inform in writing any and all subcontractors, materialmen, and other persons entitled to such a lien or claim of these provisions and agree that, in all contracts made with the said persons hereunder, the Contractor will include a provision that the said persons shall not make, file, or maintain such a lien or claim and that the said persons shall waive any and all rights they may have, or thereafter acquire, to make, file or maintain any such lien or claim.

D. The Contractor shall save and hold Owner harmless from and against any and all liens or claims of any kind or character whatsoever that may be filed against the aforesaid property or property interests by a subcontractor, materialman, or any other person arising out of or in

any manner connected with the performance of this contract, any agreement supplemental hereto, or any subcontract made pursuant to or in connection with the performance of this contract or any agreement supplemental thereto; and the Contractor shall, at his own expense, defend any and all actions based upon such liens or claims and shall pay all charges of attorneys and all costs and other expenses arising therefrom.

ARTICLE 14. PAYMENTS

A. Partial payments will be made by Owner upon proper application by the Contractor during the progress of the work as follows:

1. On or about the first day of each month, the Contractor shall render one invoice, in triplicate, for work completed (including "Lump Sum" and "Unit Price" Extra Work Tickets) through the last work day of the previous month. (For purposes of this Section A of Article 14 only, the term "work completed" shall mean material or equipment actually installed in place pursuant to this contract; and there shall be mutual agreement between designated representatives of Owner and Contractor before preparation of the invoice.) Separate invoices shall be rendered for each Extra Work Ticket issued under Article 3, Section C, upon completion of the extra work involved. The purchase order number shall be shown on all invoices.

2. Invoices for lump sum and unit price work shall be prepared as follows:

a. Indicate each "Item for Payment," the percentage completion thereof or units applicable thereto, and the gross amount due for that particular item.

b. Indicate the total aggregate amount for all items listed under (2.a.).

c. Subtract ~~10~~ % of the total aggregate amount (this is called retained percentage).

d. Subtract the net amount previously billed.

e. Indicate the difference which is the net amount due for that invoice.

3. The separate invoices for extra work completed under Article 3, Section C, will not be subject to retained percentage.

4. Each invoice shall be mailed by the Contractor to Owner's Engineering Manager. Invoice will be paid promptly after local approval by Owner.

B. Complete payment or payment of retained percentage, as the case may be, will be made by Owner upon proper application by the Contractor after delivery of the work, complete and undamaged, along with releases or receipts and an affidavit as provided in Paragraph C of this Article, and upon written acceptance thereof by Owner. The Contractor shall render one invoice, in triplicate, with the Purchase Order number shown thereon to Owner's Engineering Manager. Payment will be made promptly after Owner approval.

C. Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to Owner executed full and complete releases of all liens arising out of this contract, any agreement supplemental thereto, or any subcontract made

pursuant to or in connection with the performance under this contract or any agreement supplemental thereto, or receipts in full in lieu thereof, and in either case an affidavit listing all persons who might otherwise be entitled to file, claim, or maintain lien of any kind or character whatsoever, and containing an averment that all of the said persons have been paid in full; but, if any of said persons refuses to furnish an actual release or receipt in full, the Contractor may furnish a bond satisfactory to Owner to indemnify against any claim or lien.

D. If, after all payments are made by Owner, any lien or claim remains unsatisfied, the Contractor shall reimburse Owner for all monies that Owner may be compelled to pay in discharging such a lien or claim, including all costs and attorneys' fees.

E. Payments otherwise due may be withheld by Owner on account of defective work not remedied, liens or other claims filed, reasonable evidence indicating probable filing of liens or other claims, failure of the Contractor to make payments properly to his subcontractors, or for material or labor, reasonable doubt that the contract can be completed for the balance then unpaid, the failure of the Contractor to perform any of his other obligations under this contract or to protect Owner against any liability arising out of the Contractor's failure to pay or discharge taxes or other obligations. If the causes for which payment is withheld are removed, the withheld payments will promptly be made. If the said causes are not removed on written notice, owner may rectify the same at the Contractor's expense.

F. Forthwith, upon request of Owner made at any time prior to acceptance of the work, the Contractor shall submit to Owner a schedule of prices covering the various divisions of the work to be done under this contract. Such schedule shall aggregate the total contract price and, when approved by Owner, shall be used as a basis for determining partial payments.

G. Acceptance by the Contractor of the final payment under this contract shall constitute a waiver, release and discharge of any and all claims and demands of any kind or character whatsoever which the Contractor then has, or may or can thereafter acquire, against owner, and its successors and assigns for or on account of any matter or thing whatsoever arising out of, or in any manner connected with the performance of this contract, or any agreement supplemental hereto. However, final payment by Owner shall not constitute a waiver, release or discharge of any claims or demands, which Owner then has, or may or can thereafter acquire against the Contractor, its successors and assigns, for or on account of any matter or thing whatsoever arising out of, or in any manner connected with, the performance of this contract, or any agreement supplemental hereto.

ARTICLE 15. LIABILITY

The Contractor shall save and hold Owner harmless from and against all liability, claims and demands on account of personal injuries (including death), or property loss or damage to others (including the Contractor and employees and invitees of Owner and of the Contractor) arising out of or in any manner connected with the performance of the contract, and caused by the negligent or willful act or omission to act of the Contractor, a subcontractor or materialman hereunder, or the

employees or invitees of any of them, and the Contractor shall at his own expense defend any and all actions based thereon and shall pay all charges of attorneys and all costs and other expenses arising therefrom.

ARTICLE 16. INSURANCE

A. Owner will maintain Builder's Risk Insurance on "all risk" basis insuring the equipment intended to become a part of the completed construction work while in transit to the jobsite, while awaiting and during erection, testing and until final acceptance of the entire project, title to which is in the Owner, but will not cover items of the Contractor's property which are used in or are incident to the construction of the work but do not become a part thereof. Owner will hold harmless Contractor from all losses covered by Builder's Risk Insurance with coverage on an "all risk" basis; including, but without limitation, all losses within the policy deductible.

B. The Contractor and each subcontractor shall, during the progress of the work, maintain: (1) Workmen's Compensation Insurance in accordance with the laws of the State in which the work is being done (2) Public Liability and Property Damage Insurance and (3) Automobile Liability and Property Damage Insurance. All coverage hereunder shall be provided with liability limits acceptable to Owner.

ARTICLE 17. PATENTS

The Contractor shall defend all suits or claims and shall hold and save Owner harmless from liability of any nature or kind including costs and expenses for or on account of infringement of any United States Letters Patent by reason of the nature, form or condition of any material, article or machine supplied by the Contractor in the performance of this contract or by reason of use or sale by Owner of any such material, article or machine for a purpose intended or reasonably foreseeable by the Contractor; provided that Owner shall not obtain any right under this Article as to any claim or suit concerning which it does not give to the Contractor prompt notice in writing upon learning thereof and full opportunity to defend and dispose of such claim or suit.

ARTICLE 18. TAXES

The Contractor shall pay all sales, use and other taxes of every kind applicable to the performance of this contract, unless otherwise specified in the contract, and shall reimburse Owner if it shall pay any such taxes.

ARTICLE 19. SOCIAL SECURITY PAYMENTS

The Contractor shall pay all taxes and contributions measured by wages, salaries or other remunerations of his employees and the employees of his subcontractors required by the Federal Social Security Act or the laws of the State in which the work is done, and shall be

exclusively liable for said taxes and contributions. The Contractor shall indemnify and hold harmless Owner on account of any taxes or contributions measured by the wages, salaries or other remunerations as aforesaid of employees of the Contractor and the subcontractors assessed against Owner under the authority of said Act or laws of said State.

ARTICLE 20. PROTECTION OF PROPERTY AND PERSONS

The Contractor shall properly protect the property of the Owner and adjacent property. He shall take all necessary precautions for the safety of the employees on the work and shall comply with all applicable provisions of Federal, State and municipal safety laws and building codes to prevent accidents or injuries to persons on or about or adjacent to the premises where the work is being performed. The Contractor shall also comply promptly with any instructions of Owner for the prevention of accidents or fires or for the elimination of accident or fire hazards or unsafe practices.

ARTICLE 21. EXCLUSION OF CERTAIN PERSONS

Except with the prior written consent of Owner, the Contractor shall not permit to enter upon the premises of the Owner at the site of the work any persons other than officers, employees or representatives of Owner, the Contractor or his subcontractors. The Contractor shall not knowingly employ upon the premises of the Owner, without the consent of Owner, any person who is a member of or associated with any organization designated by the Attorney General as having interests in conflict with those of the United States; or any person whose character is such that his presence on the Owner's premises might obviously be detrimental to Owner's interest. Owner shall have the right to bar or remove from the premises any such individual after appropriate notice has been given to the Contractor.

ARTICLE 22. CLEANING

The Contractor shall at all times keep the Owner's premises and the adjoining premises, driveways and streets clean of rubbish caused by the Contractor's operations, and at the completion of the work shall remove all rubbish from and about the premises and all of this tools, equipment, temporary work and surplus materials and shall have the work clean and ready for use. If the Contractor does not attend to such cleaning immediately upon request, Owner may cause such cleaning to be done by others and charge the cost (including, but not limited to, an applicable amount of Owner's overhead) of the same to the Contractor.

ARTICLE 23. INDEPENDENT CONTRACTOR

The Contractor hereunder shall be an independent contractor, and Owner shall have no right to exercise supervision as to the manner or

method of doing work.

ARTICLE 24. TERMINATION OF CONTRACT BY OWNER

A. Should the Contractor at any time refuse or fail to prosecute the work with promptness and diligence or to perform any of his other obligations under this contract, Owner may terminate the Contractor's right to proceed with the work by written notice to the Contractor. In such event, Owner may enter upon the premises and finish the work by whatever method it may deem expedient, including the hiring of another Contractor or other Contractors and, for that purpose, may take possession of all materials, machinery, equipment, tools and appliances thereon and exercise all rights, options and privileges of the Contractor. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess will be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall be liable for and shall pay the difference to Owner.

B. Owner may, for its own convenience, terminate the Contractor's right to proceed with some or all of the work by written notice to the Contractor. Such termination shall be effective in the manner specified in such notice and shall be without prejudice to any claims which Owner may have against the Contractor, and shall not affect the obligations and duties of the Contractor hereunder with respect to work not terminated.

C. On receipt of notice under Paragraph B of this Article, the Contractor shall, with respect to the work terminated, unless the notice states otherwise, immediately discontinue such work and the placing of orders for materials, facilities and supplies in connection with the performance thereof; if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to Owner; and thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect material, plant and equipment at the site of the work or in transit thereto.

D. Upon termination pursuant to Paragraph B of this Article, the Contractor shall be paid a pro rata portion of the compensation provided herein for the portion of the terminated work already performed, including therein material and services for which he has made firm contracts which are not cancelled, it being understood that Owner shall be entitled to such material and services. Upon determination of the amount of said pro rata compensation, Owner will promptly pay such amount to the Contractor upon delivery by him of the releases or receipts and affidavit, pursuant to Paragraph C of Article 14 hereof.

ARTICLE 25. ASSIGNMENT

This contract shall be binding upon, and inure to the benefit of, the successors and assigns of the parties, except that the Contractor shall not assign any right or obligation under this contract, including

the right to receive monies due or to become due under this contract without Owner's prior written consent. No assignment shall relieve the Contractor of any obligation hereunder.

ARTICLE 26. EXECUTIVE ORDER NO. 11246 - EQUAL EMPLOYMENT OPPORTUNITY

A. For contracts exceeding \$10,000 unless exempt, Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government contracting officer setting forth the provisions of this nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union of workers representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provision of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders this contract may be cancelled terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 and such other sanctions may be imposed and

remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor on Equal Employment Opportunity, or as otherwise provided by law.

7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or contract unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or contract as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to contracts, subcontracts, and to agreements with applicants who are themselves performing Federally assisted construction contracts, exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause). By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of Equal Opportunity clause; that he will retain such certifications in his files, and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

(NOTE: THE PENALTY FOR MAKING FALSE STATEMENT IN OFFERS IS PRESCRIBED IN 18 U.S.C. 1001.)

B. For contracts exceeding \$50,000 unless exempt, Contractor agrees as follows:

1. The Contractor agrees to file with the appropriate federal agency a complete and accurate report on Standard Form 100 (EEO-1) within 30 days after the signing of this agreement or the award of any such contract, as the case may be (unless such a report has been filed in the last 12 months), and agrees to continue to file such reports annually, on or before March 31st.

2. The Contractor agrees to develop and maintain a current written affirmative action compliance program for each of its establishments in accordance with the regulations of the Secretary of Labor promulgated under Executive Order 11246, as amended.

ARTICLE 27. COMPLIANCE OF TERMS AND CONDITIONS

Owner's failure at any time, or from time to time, to enforce or require the strict keeping and performance by Contractor of any of the terms and conditions of the contract shall not constitute a waiver by Owner of such terms or conditions, and shall not affect or impair such terms or conditions in any way, or Owner's right at any time to avail itself of such remedies as it may have for any breach or breaches of such terms or conditions. No waiver of any breach of the terms and conditions of the contract shall be held to be a waiver of any other or subsequent breach.

ARTICLE 28. NOTICES

Any notice, order, certificate or writing provided for in this contract shall be considered as having been given to Owner, if delivered personally to the Engineering Manager, and to the Contractor, if delivered personally to his field representative at the site of the work. In addition, a copy of any such notice, order, certificate or writing shall be mailed by certified mail, postage prepaid, in case of Owner, to its Vice President and Chief Counsel, P.O. Box 32860, Louisville, Kentucky 40232 and in the case of the Contractor, to him at the address supplied by him to Owner.

ARTICLE 29. RECORDS TO BE KEPT AND OWNER'S AUDIT RIGHTS ON COST PLUS CONTRACTS

The Contractor shall keep full and detailed accounts and records to reflect its costs for all work performed on a cost plus basis and these records shall be subject to audit by Owner.

IN WITNESS WHEREOF, the parties hereto have caused this CONTRACT to be executed by their duly authorized representatives, effective as of the date first herein above written

THE ANACONDA COMPANY

BY Olav Karthausen

TITLE Pres

ATTEST Billie D. Menale

SEAL _____

BY J. A. Hudson

TITLE Plant Manager

ATTEST J. W. Green

SEAL _____

EXHIBIT A

PURCHASE ORDER NO. 31-99495

In Acceptance of this Purchase Order, the following attachments become a part of the same:

1. Insurance Requirements - *Modified by sheet A.1*
2. Confidentiality Agreement
3. Hold Harmless Agreement - Medical Dispensary
4. Hold Harmless Agreement - Emergency Transportation
5. ~~████████████████████~~
6. Safety Agreement
7. Federal and State Laws and Indemnification Agreement
8. Equal Employment Opportunity Clause Agreement

Further acceptance of this Purchase Order is contingent upon return of Purchase Order acknowledgement (blue copy) along with signed copies of the above enumerated attachments.

A Certificate of Insurance is to be returned to the Purchasing Department prior to commencement of work.

BUYER: Anaconda Industries, Aluminum Division

BY:

James A. Rowe

Authorized Signature